IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6719 OF 2006

Rajendra P. Shah Petitioner
versus
M/s.Ghiya Bearings Respondent

Hutoxi Tawadia & S.N.Bulbule for petitioner.
V.P.Vaidya for respondent

CORAM : R.M.S.KHANDEPARKAR, J.

DATE : 08th November 2006

PC :

1. Heard. Apparently, the record discloses that when the petition was filed, the petitioner had suppressed the fact that the impugned award was earlier challenged by Writ Petition No.2246 of 1996 and the said writ petition was rejected by this Court by order dated 6th November 1996 holding thus :-

> "In our view the order passed by the Tribunal for setting aside the ex-parte order does not call for any interference. The Tribunal has rightly condoned the delay in filing the application after setting aside the award by considering the evidence placed before it. Hence the petition is rejected."

2. The matter was carried in SLP to the Apex Court and the same was dismissed holding that "even if we were to condone the delay of 846 days, in the circumstances stated in the application for condonation of delay, the SLP would have to be dismissed on merits. The SLP is dismissed."

3. The fact that the impugned order of 12th June 1996 passed by the Labour Court rejecting the reference was sought to be challenged earlier by W.P.No.2246 of 1996 and the matter was even carried in SLP was revealed to this Court by the learned advocate for respondent, and only thereafter the petitioner placed on record copies of those orders.

4. Learned advocate for the petitioner has submitted that even she was not informed by the petitioner about the fact that the award of the Labour Court was challenged earlier by W.P. No.2246 of 1996 and it came to her knowledge only after this fact was brought to the notice of the Court by Advocate for respondent.

5. Learned advocate for the petitioner has also sought to submit that the order of this Court in

W.P.No.2246 of 1996 does not disclose the matter having been considered on merits. Be that as it may, the copy of memo of writ petition apparently discloses challenge to the award dated 12th June 1996 on merits and very fact that the petition was rejected by order dated 6th November 2006 disclose that the challenge even on merits was rejected by the said order and the Apex Court has refused to interfere in the said order. Obviously, therefore, the petitioner has suppressed this fact from this Court as well as from his advocate and thereby tried to mislead the Court. Consequently, valuable time of the Court is vested and, therefore, the petition needs to be dismissed with exemplary costs.

6. Petition is dismissed with costs of Rs.15,000/- (Rs.Fifteen thousand only). Costs shall be deposited by the petitioner within a period of four weeks from today. If costs are not paid with above duration, the Registrar General of this Court shall take appropriate action to recover the same and the costs so deposited or recovered, should be credited to the account of Maharashtra State Legal Services Authority.

(R.M.S.KHANDEPARKAR, J.)